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**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA**

In re:)	Case No.: 17-41165
MICHAEL GARCIA CIPRIANO,)	Chapter 13
JEANNETTE ANGELITA CIPRIANO)	OPPOSITION MOTION FOR RELIEF FROM STAY
)	Date: August 29, 2018
Debtor(s).)	Time: 1:30 pm
)	Place: Room 201
)	Judge Roger L. Efremsky

FACTS:

Comes now Debtors through their Attorney as follows: this is a case which involves the debtors Real Property located at 500 Malicoat Avenue, Oakley California 94561, commonly referred to hereafter as the Real Property. The moving creditor herein represents the holder of a Second Deed of Trust whose lender is F.S. B. Bank.

On or about 14th day of March 2007, the debtors purchased the Real Property located at 500 Malicoat Ave, in Oakley California and F.S.B a federally chartered Savings Bank and the Loan included both a First and Second Deed of Trust. The only initial issue in this particular case was that only the husband Debtor executed the documents as sole owner of the Real Property. It should also be noted that the note regarding the Second Deed of Trust was or did have a balloon rider in the amount of \$76,108.15 which was due on or before April 1, 2022.

1 A copy of the Deed of trust secondary Lien is marked as Exhibit "A" attached hereto and
2 made a part hereof. The balloon rider is located as an attachment.

3 It appears that the Movant Creditor is before this Court on the Second Deed of Trust
4 which was the \$76,108.15 balloon payment.

5 It should be noted that the debtor like many others begin having difficulty making the
6 Mortgage payments on the Real Property and as a direct result thereof, Debtor entered into a
7 home affordable Loan Modification with Indy Mac Mortgage Services on or about February 9,
8 2010. A copy of that Modification agreement is marked as Exhibit "B" attached hereto and made
9 a part hereof these documents were all prepared by Indy Mac Mortgage Services. It is Debtors
10 understanding that this Modification took care of all encumbrances on the Real Property
11 including the Lien for the balloon payment rider as on Exhibit "A" attached hereto.
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13 The Debtors began making payments on the Loan Modification in the year 2010 and
14 continue until the Debtors filed a voluntary petition under Chapter 13 Bankruptcy on or about
15 April of 2017. Debtors have made or tendered all Post Petition payments due. It appears that the
16 Movant Creditor herein is attempting to collect payments on a loan that were included as a
17 balloon on the Real Property and are not due at this time or in the Alternative it was paid when
18 the Loan Modification was agreed upon as part of it.
19

20 It is extremely difficult to determine what happen on this transaction as the lender or loan
21 documents redact the loan numbers and it is hard to follow. Also, in the paperwork provided by
22 the Lender on the Real Property the Social Security number for Debtor on the document is not
23 correct and the lender may be confused. Finally depending on the status of the 2nd Deed of Trust
24 or balloon payment the debtors may be able to file a Motion to Value on this Obligation.
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1 1) Wherefore it is requested that the Creditor take nothing by way of this Motion

2 2) Attorney Fees & Costs

3 3) For such other Relief that this Court deems just and proper including but not limited to
4 a Motion to Value on the Real Property.

5 Respectfully,

6
7 /s/Peter C. Pappas

8 Peter C. Pappas

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10 Dated: August 28, 2018
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COURT SERVICE LIST

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